IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1793 of 1988

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT STATE ROAD TRANSPORT CORPORATION - Appellant(s)
Versus
INDUBEN HARGOVAN PATEL & 5 - Defendant(s)

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Appearance :
MS ARCHANA PATEL WITH MR HARDIK C RAWAL for Appellant(s) : 1,
NOTICE SERVED for Defendant(s) : 1 - 6.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 07/08/2007

ORAL JUDGMENT

1. Heard Ms.Archana N.Patel with Mr.Hardik Raval, learned counsel for the appellant. None for the respondents though served.

2. The appellant – Gujarat State Road Transport Corporation, being aggrieved by the award dtd.29/9/1987 passed by the Motor Accident Claim Tribunal (Auxiliary), Surat in Motor Accident Claim Petition No.299 of 1984, is before this Court.

3. Learned tribunal awarded a sum of Rs.1,40,192=00 in favour of the respondent Nos.1 to 5 (claimants). The appellants have confined their claim to Rs.72,000=00 only. As the findings relating to rashness, negligence, accident and dependency are not under challenged, this Court is not required to detail the said facts.

4. After taking me through the evidence, learned counsel for the appellant submitted that the tribunal was unjustified in making a deduction of Rs.200=00 only, which would mean 25% of the salary of Rs.800=00. It is contended that in accordance with general principles at least an amount to the extent of 1/3rd should have been deducted and only thereafter, dependency figure should have been ascertained. It was also submitted that the tribunal was unjustified in awarding a sum of Rs.8000=00 towards the loss occasioned to the property namely Motorcycle. It is also submitted that for loss of company, expectation of life etc., the tribunal could not have awarded a sum of

Rs.10,000=00.

5. From the facts, it would appear that the deceased was earning a sum of Rs.800=00 and was maintaining a family of six persons which included his own self. It would be too cruel to hold that five members of the family would be maintaining themselves in 2/3rd of the salary, while 1/3rd of the salary would go to the person who was earning bread. The principles relating to 1/3rd deduction are not of universal application, those apply to the facts of particular case. In the present case, the tribunal was justified in making a deduction of 25% only, it had come to the right figure of 7200=00 per year.
6. So far as the loss to the properties is concerned, Panchnama produced on the records shows that the property had suffered damage to the extent of Rs.8000=00. If the tribunal had relied upon the said Panchnama, nothing wrong can be found in it.
7. Loss of the Company and enjoyment of the life can not be valued in the golden scale. Loss of the company would be understood by those who have suffered parting of the company. In the present case, the tribunal was not unjustified in awarding sum of Rs.10,000=00 in favour of the widow and four minors.

8. I find no reason to interfere. The appeal is dismissed. Interim relief, if any, is vacated. No costs.

(R.S. GARG, J.)

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